

## **OTHER AGENCIES**

### **PUBLIC EMPLOYMENT RELATIONS COMMISSION**

#### **INTEREST ARBITRATION FEES**

##### **Adoption with Amendment: N.J.A.C. 19:16-5.11**

Proposed: December 6, 2004 at 36 N.J.R. 5238(a) - PRN No. 2004-453

Adopted: February 24, 2005 by the Public Employment Relations Commission, Lawrence Henderson, Chairman

Filed: February 25, 2005 as R. \_\_\_\_, **without change**

Authority: N.J.S.A. 34:13A-16.5

Effective Date: March 21, 2005

Expiration Date: June 4, 2006

##### **Summary of Public Comments and Agency Responses:**

Written comments were timely received from Gerald L. Dorf, Esq. and the Township Clerk of the Township of Rockaway.

COMMENT: Mr. Dorf wrote the Commission in his capacity as Labor Relations Counsel to the League of Municipalities for more than 30 years. He also noted that he had represented management clients in both the public and private sector since 1968. He stressed that the selection of highly qualified and experienced interest arbitrators is essential to the interests of employers, employees, unions and the public in view of the complicated and highly skilled work of conducting mediation/arbitration sessions and interest arbitration hearings. He believes that the proposed adjustments of arbitrator fees are fair and reasonable and would assist the Commission in maintaining or expanding its list of highly qualified arbitrators.

RESPONSE: The Commission thanks Mr. Dorf for his comments supporting the amendment.

COMMENT: The Township Council of Rockaway adopted a resolution at its February 1, 2005 meeting. That resolution embodies the Council's opposition to the proposed amendment and asserts that the amendment would result in an unnecessary and unwarranted increase in costs.

RESPONSE: The Commission thanks the Township of Rockaway for submitting its views opposing the amendment. For the reasons expressed in its published proposal, the Commission continues to believe that the proposed increases in fees are necessary and

warranted in order to ensure that interest arbitrators are fairly compensated and the Commission can attract and retain the best interest arbitrators.

The Commission also notes that it encourages public employers and the representatives of their police and fire employees to resolve disputes over the terms of successor contracts through face-to-face negotiations, and, if necessary, with the assistance of a Commission mediator. Reaching agreement in this manner will avoid the time and expense that are associated with interest arbitration hearings. To that end, in the Fall of 2004 the Commission adopted a program of providing mediators to assist police/fire unions and public employers in reaching mutual agreements. Under this program, the services of the mediator are provided at no expense to the parties.

### **Federal Standards Statement**

The National Labor Relations Act excludes "any State or political subdivision thereof." See 29 U.S.C. §152(2). No federal law or regulation applies and the Commission cannot rely upon a comparable Federal rule or standard to achieve the aims of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The proposed amendment to N.J.A.C. 19:15-5.11 is thus necessary and proper.

**Full text** of the amendment follows:

19:16-5.11        Cost of arbitration

(a) The costs of services performed by the arbitrator shall be borne equally by the parties in accordance with the following fee schedule:

1. For arbitrators assigned by lot, pursuant to N.J.S.A. 34:13A-16e(1), the fee shall be \$1,000 per day;

2. For arbitrators mutually selected by the parties, the fee shall be the per diem rate set by the arbitrator for conducting grievance arbitrations and on file with the Director of Arbitration on the date of the mutual selection.

(b) (No change.)